

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI**

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CHASE E. FISCHBECK,

Civil Action No. \_\_\_\_\_

Plaintiff,

v.

BOARD OF TRUSTEES OF MISSOURI  
VALLEY COLLEGE,

**NOTICE OF REMOVAL**

28 U.S.C. § 1446

and

MISSOURI VALLEY COLLEGE,

and

TREVOR PHILLIPS,

and

PAUL TROTH,

and

BRIAN FERGUSON,

and

HEATH MORGAN,

Defendants.

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**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants Board of Trustees of Missouri Valley College, Missouri Valley College, Trevor Phillips, Paul Troth, Brian Ferguson, and Heath Morgan (collectively referred to as “Defendants”) hereby give notice of the removal of the case styled *Fischbeck v. Board of Trustees of Missouri Valley College, et al.*, No. 19SA-CV00587

(Circuit Court of Saline County, Missouri), to the United States District Court for the Western District of Missouri. Defendants state the following grounds for removal:

1. On July 3, 2019, Chase E. Fischbeck (“Plaintiff”) commenced this action in the Circuit Court of Saline County, Missouri by filing his Petition.

2. Plaintiff served a copy of his Petition on Defendants Board of Trustees of Missouri Valley College, Missouri Valley College, and Morgan on July 29, 2019.

3. Plaintiff served a copy of his Petition on Defendant Phillips on July 30, 2019.

4. Plaintiff served a copy of his Petition on Defendant Troth on July 30, 2019.

5. Plaintiff has not served Defendant Ferguson as of the date of this filing.

6. All Defendants consent to removal.

7. There are no co-defendants whose consent is otherwise required for removal, since counsel for Defendants collectively represent all Defendants.

8. Plaintiff’s Petition consists of seven counts.

a. Count I alleges discrimination/retaliation under Title VI against all Defendants.

b. Count II alleges Section 1983 claims for failure to hire qualified employees and failure to adequately train its employees against Defendants Board of Trustees of Missouri Valley College and Missouri Valley College.

c. Plaintiff does not state a Count III.

d. Count IV alleges Section 1983 Equal Protection claims against Defendant Phillips.

- e. Count V also alleges Section 1983 Equal Protection claims against Defendant Troth.
- f. Plaintiff alleges a second Count V alleging Section 1983 Equal Protection claims against Defendant Ferguson.
- g. Count VI alleges Section 1983 supervisory liability claims against Defendant Morgan.
- h. Count VII alleges negligence against all Defendants.

9. In Count I, Plaintiff invokes Title VI by stating that “MVC is a recipient of federal funds,” Pet. ¶ 98, and that the Board of Trustees for Missouri Valley College “is responsible for the administration of the programs offered at and funded via federal funds received by MVC.” Pet. ¶ 99.

10. Further, Plaintiff alleges that Title VI protects individuals, such as Plaintiff, from being “denied the full panoply of educational benefits afforded other similarly situated members of the MVC football team and MVC student body because of [Plaintiff’s] race (white) and because of his gender (male).” Pet. ¶ 100.

11. In Count II, Plaintiff alleges Section 1983 claims for failure to hire qualified employees and failure to adequately train its employees, which was “deliberately indifferent to the Constitutional rights of Plaintiff.” Pet. ¶ 120.

12. In Counts IV, V, and Plaintiff’s second Count V, Plaintiff alleges Section 1983 claims in violation of the Equal Protection Clause, found in the text of the Fourteenth Amendment to the United States Constitution.

13. In Count VI, Plaintiff alleges Section 1983 supervisory liability claims.

14. Therefore, Plaintiff's claims for discrimination, as well as Section 1983 and Equal Protection claims arise under federal law and contain substantial federal questions necessary for its resolution.

15. Further, Plaintiff even acknowledges that he "has presented a federal question" because this case arises under "42 U.S.C. § 1983, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution." Pet. ¶ 2.

16. Pursuant to 28 U.S.C. § 1331, this Court has original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States.

17. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over Plaintiff's remaining claims because they form part of the same case or controversy as his claims invoking federal law.

18. Because of this Court's original jurisdiction over Plaintiff's Counts I-VI, removal of this action is proper pursuant to 28 U.S.C. § 1441(a) and (c).

19. This Court may exercise supplemental jurisdiction over Plaintiff's remaining claims pursuant to 28 U.S.C. § 1367 and 28 U.S.C. § 1441(c).

20. The filing of this Notice of Removal is timely under 28 U.S.C. § 1446(b) because it is within thirty (30) days of receipt by Defendants, through service or otherwise, of a copy of the initial pleading setting forth the claims for relief upon which this action is based.

21. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendants in this action are attached hereto. Plaintiff has not served, and Defendants have not received, any other process, pleadings or orders.

22. After the filing of this Notice of Removal, Defendants will file a copy of this Notice with the Clerk of the Circuit Court of Saline County, Missouri, and will provide notice to Plaintiff, all as provided by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants state that they have divested the state court of jurisdiction by filing with that Court a Notice of Filing this Notice of Removal, and requests that this Court proceed with adjudication of this matter.

Respectfully submitted,

/s/ Aleksandra Ostojic Rushing

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***Attorneys for Defendants Board of Trustees  
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College, Trevor Phillips, Paul Troth, Brian  
Ferguson, and Heath Morgan***

**CERTIFICATE OF SERVICE**

I certify that on this 28<sup>th</sup> day of August, 2019, the foregoing was filed electronically with the Clerk of the Court by using the CM/ECF system. I further certify that a true and correct copy was served upon the following counsel via U.S. mail to:

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Kansas City, MO 64133  
*Attorneys for Plaintiff*

By: /s/ Aleksandra Ostojic Rushing  
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